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S&H Form: (2/01)

Docket No.: 1293.1273

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Jin-gyo SEO

Serial No. 09/995,828

Group Art Unit: 2653

Confirmation No. 9729

Filed: November 29, 2001

Examiner: Kimlien T. Le

For: ADAPTIVE RECORDING CONTROL METHOD AND APPARATUS FOR HIGH DENSITY OPTICAL RECORDING

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Technology Center 2600

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

This is responsive to the Office Action mailed February 10, 2003, having a shortened period for response set to expire on March 10, 2003, the following remarks are provided.

I. Provisional Election of Claims Pursuant to 37 CFR §1.142

Applicants provisionally elect **Group I, claims 1-12 and 18-26** in response to the preliminary restriction requirement set forth in the Office Action.

II. Applicants Traverse the Requirement

Insofar as Group II is concerned, it is believed that claims 13-17 are so closely related to elected claims 1-12 and 18-26 that they should remain in the same application to preserve unity of the invention and to avoid any possibility of a double patenting issue arising at some later date. The elected claims 1-12 and 18-26 are directed to a method of recording on medium including setting first, last, and multiple pulse train power levels and claims 13-17 are drawn to an apparatus for recording on medium including NRZI pulse generator with read, peak, bias control signals selected dependent on correlation and laser diode driver with 3 power level settings. There have been no references cited to show any necessity for requiring restriction and, in fact, it is believed that the Examiner would find references containing both method and

product claims in the same field of technology. While it is noted that the Examiner has identified different classifications for the product and method claims, it is believed that classification is not conclusive on the question of restriction. It is believed, moreover, that evaluation of both sets of claims would not provide an undue burden upon the Examiner at this time in comparison with the additional expense and delay to Applicants in having to protect the additional subject matter recited by the Group II claims by filing a divisional application.

MPEP 803 sets forth the criteria for restriction between patentably distinct inventions. (A) indicates that the inventions must be independent (see MPEP §802.01, §806.04, §808.01) or distinct as claimed (see MPEP §806.05-806.05(i)); and (B) indicates that there must be a serious burden on the Examiner if restriction is required (see MPEP §803.02, §806.04(a)-§806.04(i), §808.01(a) and §808.02). The Examiner has not set forth why there would be a serious burden if restriction is required.

### III. Conclusion

Upon review of references involved in this field of technology, when considering that the method recited by the Group II claims is directed to an apparatus for recording on medium including NRZI pulse generator with read, peak, bias control signals selected dependent on correlation and laser diode driver with 3 power level settings, and elected claims 1-12 and 18-26 are directed to a method of recording on medium including setting first, last, and multiple pulse train power levels, and when all of the other various facts are taken into consideration, it is believed that upon reconsideration of the Examiner's initial restriction requirement, all of the pending claims should be examined in the subject application.

In view of the foregoing amendments, arguments and remarks, all claims are deemed to be allowable and this application is believed to be in condition for allowance.

If any further fees are required in connection with the filing of this Amendment, please charge the same to our deposit account number 19-3935.

Should any questions remain unresolved, the Examiner is requested to telephone Applicants' attorney.

Respectfully submitted,

STAAS & HALSEY LLP

Date: 3/19/03

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